



## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Parts 1 and 2

RIN 0503-AA68

### Delegations of Authority

**AGENCIES:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department of Agriculture (USDA) to reflect changes and additions to the delegations as summarized below. This rule also amends the scope and applicability of the rules of practice governing formal adjudicatory hearings to include actions initiated under the National Forest Roads and Trails Act.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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### SUPPLEMENTARY INFORMATION:

#### Overview of Changes

##### A. Realignment of the Office of Tribal Relations

This rule amends the delegations of authority in 7 CFR part 2 to reflect the realignment of the Office of Tribal Relations (OTR) from a staff office within the Office of Partnerships and Public Engagement (OPPE) to a staff office whose head reports directly to the Secretary of Agriculture (Secretary). *See* Secretary's Memorandum 1077-002 (June 24, 2021), available at <https://www.ocio.usda.gov/document/secretarys-memorandum-1077-002>. The rule relocates the delegations of authority to the Director of OTR from § 2.701 in Subpart V to § 2.39 in Subpart D

and removes the delegations of authority to the Director of OPPE related to the Office of Tribal Relations.

### **B. Realignment of the Office of the Executive Secretariat**

This rule amends the delegations of authority in 7 CFR part 2 to reflect the realignment of the Office of the Executive Secretariat (OES). *See* Secretary's Memorandum 1076-06 (Aug. 14, 2020), available at <https://www.ocio.usda.gov/document/secretarys-memorandum-1076-036>.

Pursuant to this realignment, the Departmental directives and forms functions previously assigned to the Director of OES have been reassigned to the Director of the Office of Budget and Program Analysis (OBPA). In addition, the Departmental records management functions previously assigned to the Director of OES have been reassigned to the General Counsel.

Further, the rule revises the delegations of authority to reflect that the Director of OES and the Secretarial correspondence management function and support for the Immediate Office of the Secretary have been removed from the supervision of the Assistant Secretary for Administration (ASA) and now reside in the Office of the Secretary. To reflect the move of the Director of OES from the Departmental Administration mission area to the Office of the Secretary, this rule redesignates the delegations to the Deputy Secretary at § 2.15 to reserved § 2.14, moves the delegations of authority to the Under Secretary for Trade and Foreign Agricultural Affairs (TFAA) from § 2.26 to § 2.15, and moves the delegations of authority to the Director of OES from § 2.97 to § 2.26. This rule moves § 2.26 to Subpart D, Delegations of Authority to Other General Officers and Agency Heads, and amends the cross-references to the delegations of authority to the Under Secretary for TFAA in §§ 2.22, 2.600, 2.601, and 2.602.

### **C. Additional Delegations under the Agriculture Improvement Act of 2018**

Section 7611 of the Agriculture Improvement Act of 2018 ("the Act"), P.L. 115-334, renamed the Agriculture Conservation Experienced Services (ACES) program authorized under section 1252 of the Food Security Act of 1985 (16 U.S.C. 3851) the "Experienced Services Program" and expanded the authority to cover technical, professional, and administrative

services to support the Research, Education, and Economics (REE) mission area of the Department. A previous rule implementing the Act added new delegations for the expanded program authority to the Under Secretary for REE and to the Director of NIFA. *See*, Revision of Delegations of Authority, 85 FR 65500-01 (Oct. 15, 2020). This rule revises the delegations of authority to reflect that the Experienced Services Program authority has been further assigned to the Administrators of the Agricultural Research Service (ARS), the Economic Research Service (ERS), and the National Agricultural Statistics Service (NASS).

Section 8642 of the Act (7 U.S.C. 7655c) established a new authority for the Secretary to carry out activities related to performance-driven research and development, education, and technical assistance for the purpose of facilitating the use of innovative wood products in wood building construction, including the authority to make competitive grants to institutions of higher education. This rule revises the delegations of authority to the Chief of the Forest Service, through the Under Secretary for Natural Resource and Environment (NRE), to include the authority under 7 U.S.C. 7655c, as previously assigned in Secretary's Memorandum 1076-030 (July 1, 2019), available at <https://www.ocio.usda.gov/document/secretarys-memorandum-1076-030>.

#### **D. Service First Initiative**

The "Service First" initiative, codified at 43 U.S.C. 1703, authorizes the Secretary of Agriculture and the Secretary of the Interior to establish joint projects, co-locate in facilities, and make reciprocal delegations of authority to promote customer service and efficiency. Although initially limited to land management agencies, Congress amended the authority in 2014 to make it available to all bureaus or offices of USDA and the Department of the Interior. This rule extends the Service First authority to the Under Secretary for Farm Production and Conservation (FPAC), following an initial delegation in a Secretary's Memorandum issued January 4, 2021.

#### **E. Miscellaneous Revisions to Part 2**

Section 5 of the Department of Agriculture Organic Act of 1956 (7 U.S.C. 2228) authorizes the Department to furnish subsistence to employees without consideration as, or deduction from, the compensation of such employees where warranted by emergency conditions connected with the work of the Department under regulations prescribed by the Secretary. This rule revises the delegations of authority to the Under Secretary for NRE and the Chief of the Forest Service to confirm that this Departmental authority is available to the Forest Service. Further, this revision to the published delegations confirms the existing authority of the Forest Service to provide subsistence, including quarters and meals, to agency personnel in emergency conditions, such as wildland firefighters, in a manner that takes into account health and safety requirements resulting from the COVID-19 pandemic and other such emergencies.

This rule also modifies the existing delegation of authority from the Under Secretary for NRE to the Chief of the Forest Service at § 2.60 concerning the authority to acquire land under the Weeks Act and special forest receipts acts. The revision streamlines the land acquisition process by removing the exception, for acquisitions of \$250,000 in value or greater, to the Chief's delegation of authority to approve such acquisitions and by eliminating the corresponding reservation of authority by the Under Secretary for NRE to approve such land acquisitions.

In addition, this rule makes general updates to the delegations to the Director of the Office of Homeland Security in § 2.95 and the related delegations to the Assistant Secretary for Administration (ASA) in § 2.24(a)(8). The rule moves the delegations to the ASA related to physical security and safety of personnel from 2.24(a)(8) to a new paragraph (a)(11) to reflect that these delegations are further assigned to the Office of Safety, Security, and Protection. This rule also corrects an internal citation in a delegation to the Under Secretary for NRE.

This rule makes revisions throughout Part 2 to reflect the name change of the former Office of Property and Fleet Management to the Office of Environmental Management. *See*

Secretary's Memorandum 1077-001 (March 26, 2021), available at

<https://www.ocio.usda.gov/document/secretarys-memorandum-1076-037>.

This ruled further amends the existing delegations to the Under Secretary for FPAC and the Administrator of the Farm Service Agency (FSA) under 7 U.S.C. 2204b(b)(4) to enter into cooperative agreements related to outreach and technical assistance for FSA programs, as previously implemented in Secretary's Memorandum 1077-003 (July 26, 2021) available at <https://www.ocio.usda.gov/document/secretarys-memorandum-1077-003>.

#### **F. Addition of National Forest Roads and Trails Act to USDA's Rules of Practice**

In addition to the revisions to Part 2, this rule also amends the scope of and applicability of USDA's rules of practice for formal adjudicatory hearings at 7 CFR Part 1, Subpart H, to include proceedings under the National Forest Roads and Trails Act (FRTA) (16 U.S.C. 534). FRTA requires a formal adjudicatory proceeding for revocation of easements for nonuse, provided the holder requests one within 60 days of receipt of the notice of revocation. Revising 7 CFR § 1.131 to add FRTA to the list of statutory provisions does not require public notice and comment as it is a technical, non-discretionary change to comply with statutory law.

#### **Classification**

This rule relates to internal agency management. Accordingly, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the *Federal Register*. This rule also is exempt from the provisions of Executive Orders 12866 and 13771. This action is not a rule as defined by the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.*, or the Congressional Review Act, 5 U.S.C. 801 *et seq.*, and thus is exempt from the provisions of those acts. This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects**

## **7 CFR Part 1**

Administrative practice and procedure, Agriculture, Antitrust, Claims, Cooperatives, Courts, Equal access to justice, Fraud, Freedom of information, Government employees, Lawyers, Motion pictures, Penalties, Privacy.

## **7 CFR Part 2**

Authority delegations (Government agencies)

Accordingly, as discussed in the preamble, 7 CFR Subtitle A is amended as follows:

### **Subtitle A – Office of the Secretary of Agriculture**

#### **PART 1 – ADMINISTRATIVE REGULATIONS**

#### **Subpart H – Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes**

1. The authority citation for subpart H is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 61, 87e, 228, 268, 499o, 608c(14), 1592, 1624(b), 1636b, 1638b, 2151, 2279e, 2621, 2714, 2908, 3812, 4610, 4815, 4910, 6009, 6107, 6207, 6307, 6411, 6519, 6520, 6808, 7107, 7734, 8313; 15 U.S.C. 1828; 16 U.S.C. 534, 620d, 1540(f), 3373; 21 U.S.C. 104, 111, 117, 120, 122, 127, 134e, 134f, 135a, 154, 463(b), 621, 1043; 30 U.S.C. 185(o)(1); 43 U.S.C. 1740; 7 CFR 2.27, 2.35.

#### **7 CFR § 1.131**

2. Amend § 1.131(a) by adding a statutory provision to the list in alphabetical order to read as follows:

##### **§ 1.31 Scope and applicability of this subpart.**

(a) \* \* \*

National Forest Roads and Trails Act (16 U.S.C. 534).

\* \* \* \* \*

#### **PART 2 – DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT**

3. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR 1949-1953 Comp., p. 1024.

**PART 2—[AMENDED]**

4. In part 2, revise all references to “Director, Office of Property and Fleet Management” to read “Director, Office of Property and Environmental Management”.

**Subpart C – Delegations of Authority to the Deputy Secretary, Under Secretaries, and Assistant Secretaries**

**§ 2.15 [Redesignated]**

5. Redesignate § 2.15 as § 2.14.

**§ 2.26 [Redesignated]**

6. Redesignate § 2.26 as § 2.15.

7. Amend the newly redesignated § 2.15 by revising paragraphs (a)(1)(iv) and removing and reserving paragraph (a)(1)(vii)(F) to read as follows:

**§ 2.15 Under Secretary for Trade and Foreign Agricultural Affairs.**

(a) \* \* \*

(1) \* \* \*

(iv) Conduct functions of the Department relating to WTO, the Trade Expansion Act of 1962 (19 U.S.C. 1801 *et seq.*), the Trade Act of 1974 (19 U.S.C. 2101 *et seq.*), the Trade Agreements Act of 1979 (19 U.S.C. 2501 *et seq.*), the Omnibus Trade and Competition Act of 1988 (19 U.S.C. 2901 *et seq.*), and other legislation affecting international agricultural trade including the programs designed to reduce foreign tariffs and other trade barriers.

\* \* \* \* \*

8. Amend § 2.16 by revising paragraphs (a)(1)(xxviii)(B) and (a)(12) to read as follows:

**§ 2.16 Under Secretary for Farm Production and Conservation.**

(a) \* \* \*

(1) \* \* \*

(xxviii) \* \* \*

(B) Administer cooperative agreements with Federal agencies, State, local, and tribal governments, nongovernmental organizations, and educational institutions related to outreach and technical assistance for programs carried out by the Farm Service Agency, and, where such cooperative agreements focus on outreach activities to beginning, underserved, or veteran producers, coordinate with the Director, Office of Partnerships and Public Engagement to reduce potential duplication.

\* \* \* \* \*

(12) Establish programs with any bureau of the U.S. Department of the Interior (DOI), or with other agencies within USDA, in support of the Service First initiative for the purpose of promoting customer service and efficiency, including delegating to employees of DOI and other USDA agencies the authorities of the agencies in the Farm Production and Conservation mission area necessary to carry out projects on behalf of USDA (43 U.S.C. 1703).

\* \* \* \* \*

9. Amend § 2.20 by revising the introductory text of paragraph (a)(2)(xxiv)(A) and (a)(2)(lv) and adding paragraph (a)(2)(lvi) to read as follows:

**§ 2.20 Under Secretary for Natural Resources and Environment.**

(a) \* \* \*

(2) \* \* \*

(xxiv) \* \* \*

(A) Administer the forestry aspects of the programs listed in paragraphs (a)(2)(xxiv)(A)(1) through (3) of this section on the National Forest System, rangelands with national forest boundaries, adjacent rangelands which are administered under formal agreement, and other forest lands;

\* \* \* \* \*

(lv) Conduct performance-driven research and development, education, and technical assistance for the purpose of facilitating the use of innovative wood products in wood building construction in the United States (7 U.S.C. 7655c) and administer the Wood Innovation Grant program (7 U.S.C. 7655d).

(lvi) Furnish subsistence to employees without consideration as, or deduction from, the compensation of such employees where warranted by emergency conditions connected with the work of the Forest Service (7 U.S.C. 2228).

\* \* \* \* \*

## **§ 2.22 [Amended]**

10. In § 2.22, revise all references to “§ 2.26(a)(1)(x)” to read “§ 2.15(a)(1)(x)”.

11. Amend § 2.24 by:

- a. Revising paragraph (a)(8);
- b. Removing and reserving paragraphs (a)(9)(iii) and (a)(10); and
- c. Revising paragraph (a)(11).

The revisions read as follows:

## **§ 2.24 Assistant Secretary for Administration.**

(a) \* \* \*

(8) *Related to homeland security.* (i) Serve as the principal advisor to the Secretary on national security, including emergency management, agriculture and food defense, and foreign investments in U.S. agriculture.

(ii) Coordinate activities of the Department, including policies, processes, budget needs, and oversight relating to national security, including emergency management, biodefense, agriculture and food defense, and foreign investments in U.S. agriculture.

(iii) Act as the primary liaison on behalf of the Department with other Federal departments and agencies in activities relating to national security, including emergency management, integrated laboratory networks, agriculture and food defense, foreign investments

in U.S. agriculture, national intelligence collection priorities, and interagency coordination and data sharing.

(iv) Coordinate in the Department the gathering of information relevant to early warning and awareness of threats and risks to the food and agriculture critical infrastructure sector; and share that information with, and provide assistance with interpretation and risk characterization of that information to, the intelligence community (as defined in 5 U.S.C. 3003), law enforcement agencies, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of Health and Human Services, and State fusion centers (as defined in section 210A(j) of the Homeland Security Act of 2002 (6 U.S.C. 124h(j))).

(v) Establish and maintain an effective defensive Counterintelligence Program to counter Foreign Intelligence Entity (FIE) threats to Departmental sensitive information and assets that includes identification and risk assessment to sensitive assets, development and implementation of mitigation strategies, integration of counter-FIE efforts across the Department, sharing of threat information and warnings, and promotion of counterintelligence training awareness.

(vi) Liaise with the Intelligence Community to assist in the development of periodic assessments and intelligence estimates, or other intelligence products, that support the defense of the food and agriculture critical infrastructure sector and risks associated with foreign investments in U.S. agriculture.

(vii) Coordinate the conduct, evaluation, and improvement of exercises to identify and eliminate gaps in preparedness and response.

(viii) Produce a Department-wide centralized strategic coordination plan to provide a high-level perspective of the operations of the Department relating to homeland and national security, including emergency management and agriculture and food defense.

(ix) Establish and carry out an interagency Agriculture and Food Threat Awareness Partnership Program, including by entering into cooperative agreements or contracts with Federal, State, or local authorities (7 U.S.C. 6922).

(x) Administer the Department's Emergency Preparedness Program. This includes:

(A) Coordinate the delegations and assignments made to the Department under the Defense Production Act of 1950, 50 U.S.C. App. 2061, et seq.; the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq.; and by Executive Orders 12148, "Federal Emergency Management" (3 CFR, 1979 Comp., p. 412), 12656, "Assignment of Emergency Preparedness Responsibilities" (3 CFR, 1988 Comp., p. 585), and 13603, "National Defense Resources Preparedness" (3 CFR, 2012 Comp., p. 225), or any successor to these Executive Orders, to ensure that the Department has sufficient capabilities to respond to any occurrence, including natural disaster, military attack, technological emergency, or any all hazards incident.

(B) Manage the Department Emergency Operations Center at Headquarters and the Secretary's alternative facilities; provide senior staff with international, national, and regional situational awareness reports; and provide and maintain current information systems technology and National Security Systems to support USDA executive crisis management capability.

(C) Provide facilities and equipment to facilitate inter-agency coordination during emergencies.

(D) Activate the USDA incident management system in accordance with the National Response Framework and the National Incident Management System in the event of a major incident; and provide oversight and coordination of the Department's Emergency Support Functions as outlined in the National Response Framework.

(E) Develop and promulgate policies for the Department regarding emergency preparedness and national security, including matters relating to anti-terrorism and agriculture-related emergency preparedness planning, both national and international, and guidance to USDA State and County Emergency Boards.

(F) [Reserved]

(G) Provide representation and liaison for the Department in contacts with other Federal entities and organizations, including the National Security Council's functional directorates, Homeland Security Council, Office of Management and Budget, Department of Homeland Security, Federal Emergency Management Agency, Office of the Director of National Intelligence, Department of State, Federal Bureau of Investigation, and Department of Defense concerning matters of a national security, multilateral weapons conventions, natural disasters, other emergencies, and agriculture/food-related international civil emergency planning and related activities.

(H) Act as the primary USDA representative for anti-terrorism activities and coordinates and oversees USDA's agroterrorism defense activities and programs.

(I) [Reserved]

(J) Provide guidance and direction regarding radiological emergency preparedness programs and the implementation of the National Response Framework's Nuclear/Radiological Incident Annex to Departmental staff offices, mission areas, and agencies.

(K) Provide program leadership and coordination for USDA's radiological emergency preparedness requirements with respect to Emergency Management and Assistance (44 CFR parts 350 through 352).

(L) Represent USDA on the Federal Radiological Preparedness Coordinating Committee (FRPCC) and Regional Assistance Committees (RACs) and assist them in carrying out their functions.

(M) Support USDA in its management of the Department's emergency response program with respect to radiological emergency response activities.

(N) [Reserved]

(xi) Administer the Controlled Unclassified Information (CUI) program for the Department pursuant to E.O. 13556, "Controlled Unclassified Information" (75 FR 68675, 3 CFR, 2011 Comp., p. 267) and 32 CFR part 2002.

(xii) Serve as the primary point of contact for Government Accountability Office (GAO) and Office of the Inspector General (OIG) audits of USDA homeland and national security activities.

(xiii) Coordinate interaction between Department agencies and private sector businesses and industries in emergency planning and public education under Department authorities delegated or assigned under the National Response Framework, National Infrastructure Protection Plan, Defense Production Act of 1950, 50 U.S.C. App. 2061, et seq., and Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq.

(xiv) Oversee the Department's ability to collect and disseminate information and prepare for an agricultural disease emergency, agroterrorism act, or other threat to agricultural biosecurity, and coordinate such activities among agencies and offices within the Department (7 U.S.C. 8912).

(xv) Promulgate Departmental policies, standards, techniques, and procedures and represent the Department in providing security guidance to the Food and Agricultural Sector nationwide. This includes the following duties:

(A) Provide guidance to USDA agencies and the Food and Agricultural Sector in matters of security through use of assessments and development of mitigation strategies.

(B) Represent and act as liaison for the Department in contacts with other Federal security entities and organizations, including the Interagency Security Committee and the Department of Homeland Security.

(C) Provide guidance and direction to ensure agriculture/food security are fully integrated in USDA's security preparations, which are reported to and coordinated with the White House.

(D) Provide assistance to the USDA agencies in preparation for and during a disaster to identify critical assets and possible alternate storage locations.

(xvi) Provide oversight and coordination of the development and administration of the Department Continuity Program. This includes:

(A) Provide guidance and direction regarding continuity of operations to the Office of the Secretary, Departmental staff offices, mission areas, and agencies.

(B) Represent and act as liaison for the Department in contacts with other Federal entities and organizations concerning matters of assigned continuity program responsibilities.

(C) Oversee Department continuity of operations and emergency relocation facility planning, development, equipping, and preparedness to ensure that resources are in a constant state of readiness.

(xvii) Establish procedures to prevent unnecessary access to classified national security information (CNSI) including procedures that require that need for access to CNSI is established before initiating security clearance procedures; and ensure that the number of persons granted access CNSI is limited to the minimum consistent with operational and security requirements:

(A) Direct and administer USDA's CNSI program pursuant to E.O. 13526, "Classified National Security Information" (75 FR 707, 3 CFR, 2010 Comp., p. 298), or subsequent orders.

(B) Establish and maintain Information Security policies and procedures for classifying, declassifying, safeguarding, and disposing of CNSI and materials.

(C) Investigate or delegate authority to investigate any potential compromises of CNSI and take corrective action for violations or infractions under section 5.5(b), of E.O. 13526 or any subsequent order.

(D) Develop and maintain oversight of all facilities throughout USDA where CNSI is or will be safeguarded, discussed, or processed including sole authority to liaison with the Central Intelligence Agency concerning guidance, approval, requirements, and oversight of USDA secure facilities.

(xviii) Control within USDA the acquisition, use, and disposal of material and equipment that can be a source of ionizing radiation.

(A) Promulgate policies and procedures for ensuring the safety of USDA employees, the public, and the environment resulting from USDA's use of ionizing radiation sources.

(B) Maintain and ensure compliance with the Nuclear Regulatory Commission regulations (Title 10, Code of Federal Regulations) and license(s) issued to USDA for the acquisition, use, and disposal of radioactive materials.

(xix) Provide administrative supervision to the unit that grants, denies, or revokes security clearances for USDA employees and contractors.

\* \* \* \* \*

(11) *Related to safety, security, and protection.* (i) Promulgate Departmental policies, standards, techniques, and procedures; and represent the Department in maintaining the security of physical facilities and providing security guidance to the Food and Agricultural Sector nationwide. This includes the following activities:

(A) Lead and coordinate the development and maintenance of a mission critical facility inventory with agency involvement to ensure proper security countermeasures are implemented in the Department's most critical infrastructure.

(B) Provide guidance to USDA agencies in matters of physical security through use of physical security assessments and development of mitigation strategies.

(C) Conduct physical security investigations and compliance reviews Department-wide.

(D) Review and provide coordinated technical physical security assessments for all new construction of laboratories, data centers, germplasm repositories, and other mission critical infrastructure during the design phase, and all leased facilities prior to contract award.

(E) Oversee and manage physical security aspects of the Common Identification Card (LincPass) Program to ensure National Institute of Standards and Technology (NIST) and General Services Administration (GSA) compliancy within the National Capital Region and the physical access to USDA facilities.

(F) Provide enterprise connectivity to agency physical access control systems that provide cost leveraging and provisioning/de-provisioning nationwide.

(ii) Promulgate Departmental regulations, standards, techniques, and procedures and represent the Department in managing and maintaining a comprehensive physical and technical security program including access control, management of special police officer and guard services, executive driving, parking, ID badging in accordance with HSPD-12, occupant emergency and warden services at the USDA Headquarters Complex, George Washington Carver Center and, in coordination with GSA, USDA leased facilities in the Washington, DC metropolitan area, as well as at emergency relocation sites and certain critical facilities specified by the Assistant Secretary for Administration.

(iii) Carry out protection operations for the Secretary, Deputy Secretary, and other individuals as specified in Section 12520 of the Agriculture Improvement Act of 2018, including by authorizing law enforcement officers or special agents to carry firearms; conduct criminal investigations into potential threats to the security of individuals protected under Section 12520; make arrests without a warrant for any offense against the United States committed in the presence of the law enforcement officer or special agent; perform protective intelligence work, including identifying and mitigating potential threats and conducting advance work to review security matters relating to sites and events; and coordinate with local law enforcement authorities (7 U.S.C. 2279k).

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#### **Subpart D – Delegations of Authority to Other General Officers and Agency Heads**

12. Add § 2.26 to read as follows:

##### **§ 2.26 Director, Office of the Executive Secretariat.**

(a) *Delegations.* The following delegations of authority are made by the Secretary to the Director, Office of the Executive Secretariat:

(1) Exercise responsibility for all correspondence control and related records management functions for the Office of the Secretary;

(2) Provide administrative, editorial, and project management support services to the immediate Office of the Secretary.

(b) [Reserved]

13. Amend § 2.30 by adding paragraph (a)(9) to read as follows:

**§ 2.30 Director, Office of Budget and Program Analysis.**

(a) \* \* \*

(9) Administer the Departmental forms, reports, and directives management programs.

\* \* \* \* \*

14. Amend § 2.31 by adding paragraph (d) to read as follows:

**§ 2.31 General Counsel.**

\* \* \* \* \*

(d) *Related to records management.* Administer the Departmental records management program.

\* \* \* \* \*

**§ 2.38 [Amended]**

15. Amend § 2.38 by removing and reserving paragraph (a)(2).

16. Add § 2.39 to read as follows:

**§ 2.39 Director, Office of Tribal Relations.**

(a) *Delegations.* The following delegations of authority are made by the Secretary to the Director, Office of Tribal Relations.

(1) Serve as the Department's primary point of contact for tribal issues.

(2) Advise the Secretary on policies related to Indian tribes.

(3) Serve as the official with principal responsibility for the implementation of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," including the provision of Department-wide guidance and oversight regarding tribal consultation, coordination, and collaboration.

(4) Coordinate the Department's programs involving assistance to American Indians and Alaska Natives.

(5) Enter into cooperative agreements to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas (7 U.S.C. 2204b(b)(4)); and to provide outreach and technical assistance to socially disadvantaged farmers and ranchers and veteran farmers and ranchers (7 U.S.C. 2279(c)(4)).

(6) Consult with the Administrator, Foreign Agricultural Service on the implementation of section 3312 of the Agriculture Improvement Act of 2018 (7 U.S.C. 5608) to support greater inclusion of Tribal agricultural food products in Federal trade activities.

(7) In coordination with the Under Secretary for Rural Development, provide technical assistance to improve access by Tribal entities to rural development programs funded by the Department of Agriculture through available cooperative agreement authorities (7 U.S.C. 2671).

(8) Oversee the Tribal Advisory Committee (7 U.S.C. 6921).

(b) [Reserved]

**Subpart F – Delegations of Authority by the Under Secretary for Farm Production and Conservation.**

17. Amend § 2.42 by removing and reserving paragraph (a)(42) and revising paragraph (a)(50)(ii) to read as follows:

**§ 2.42 Administrator, Farm Service Agency.**

(a) \* \* \*

(50) \* \* \*

(ii) Administer cooperative agreements with Federal agencies, State, local, and tribal governments, nongovernmental organizations, and educational institutions related to outreach and technical assistance for programs carried out by the Farm Service Agency, and, where such cooperative agreements focus on outreach activities to beginning, underserved, or veteran

producers, coordinate with the Director, Office of Advocacy and Outreach to reduce potential duplication.

## **Subpart J – Delegations of Authority by the Under Secretary for Natural Resources and Environment**

18. Amend § 2.60 by revising paragraphs (a)(3) and (a)(64), adding paragraph (a)(65), and removing paragraph (b)(6) to read as follows:

### **§ 2.60 Chief, Forest Service.**

(a) \* \* \*

(3) Acquire, dispose, and lease lands and interest in lands as may be authorized for the protection, management, and administration of the National Forest System, including the authority to approve acquisition of land under the Weeks Act of March 1, 1911, as amended, and special forest receipts acts (Pub. L. No. 337, 74th Cong., 49 Stat. 866, as amended by Pub. L. 310, 78th Cong., 58 Stat. 227; Pub. L. 505, 75th Cong., 52 Stat. 347, as amended by Pub. L. 310, 78th Cong., 58 Stat. 227; Pub. L. 634, 75th Cong., 52 Stat. 699, as amended by Pub. L. 310, 78th Cong., 58 Stat. 227; Pub. L. No. 748, 75th Cong., 52 Stat. 1205, as amended by Pub. L. 310, 78th Cong., 58 Stat. 227; Pub. L. 427, 76th Cong., 54 Stat. 46; Pub. L. 589, 76th Cong., 54 Stat. 297; Pub. L. 591, 76th Cong., 54 Stat. 299; Pub. L. 637, 76th Cong., 54 Stat. 402; Pub. L. 781, 84th Cong., 70 Stat. 632).

\* \* \* \* \*

(64) Conduct performance-driven research and development, education, and technical assistance for the purpose of facilitating the use of innovative wood products in wood building construction in the United States (7 U.S.C. 7655c) and administer the Wood Innovation Grant program (7 U.S.C. 7655d).

(65) Furnish subsistence to employees without consideration as, or deduction from, the compensation of such employees where warranted by emergency conditions connected with the work of the Forest Service (7 U.S.C. 2228).

\* \* \* \* \*

**Subpart K – Delegations of Authority by the Under Secretary for Research, Education, and Economics**

19. Amend § 2.65 by adding paragraph (a)(10) to read as follows:

**§ 2.65 Administrator, Agricultural Research Service.**

(a) \* \* \*

(10) Administer an experienced services program to obtain technical, professional, and administrative services to support the research, education, and economics mission area of the Department (16 U.S.C. 3851).

\* \* \* \* \*

20. Amend § 2.67 by adding paragraph (a)(3) to read as follows:

**§ 2.67 Administrator, Economic Research Service.**

(a) \* \* \*

(3) Administer an experienced services program to obtain technical, professional, and administrative services to support the research, education, and economics mission area of the Department (16 U.S.C. 3851).

\* \* \* \* \*

21. Amend § 2.68 by adding paragraph (a)(15) to read as follows:

**§ 2.68 Administrator, National Agricultural Statistics Service.**

(a) \* \* \*

(15) Administer an experienced services program to obtain technical, professional, and administrative services to support the research, education, and economics mission area of the Department (16 U.S.C. 3851).

\* \* \* \* \*

**Subpart P – Delegations of Authority by the Assistant Secretary for Administration**

22. Amend § 2.94 by revising paragraph (a) introductory text to read as follows:

**§ 2.94 Chief Security Director, Office of Safety, Security, and Protection.**

(a) Delegations from the Assistant Secretary for Administration. Pursuant to §2.24(a)(11), and with due deference for delegations to other Departmental Administration officials, the following delegations of authority are made by the Assistant Secretary for Administration to the Chief Security Director:

\* \* \* \* \*

23. Revise § 2.95 to read as follows:

**§ 2.95 Executive Director, Office of Homeland Security.**

(a) Delegations from the Secretary. Pursuant to 7 U.S.C. 6922, Executive Order (E.O.) 10450, "Security Requirements for Government Employment," 18 FR 2489, 3 CFR, 1953 Comp., p. 72, as amended; E.O. 12968, "Access to Classified Information," 60 FR 40245, 3 CFR, 1995 Comp., p. 391; E.O. 13526, "Classified National Security Information," 75 FR 707, 3 CFR, 2010 Comp., p. 298; E.O. 13587, "Structural Reforms to Improve the Security of Classified Networks and Responsible Sharing and Safeguarding of Classified Information," 76 FR 63811, 3 CFR, 2012 Comp., p. 276, and 5 CFR part 732, and with due deference for delegations to other Departmental Administration officials, the following delegations of authority are made by the Secretary to the Executive Director, Office of Homeland Security, pursuant to the Executive Director's responsibilities as the Departmental National Security Programs Officer and Senior Official for Insider Threat, as designated by the Secretary:

(1) Manage the personnel security functions of the Department for making eligibility determinations for individuals who require initial or continued eligibility (SEAD 6, Continuous Evaluation, or its successor) for access to classified information or eligibility to hold a sensitive position in accordance with Security Executive Agent Directive (SEAD) 4, National Security Adjudicative Guidelines, or its successor; sponsoring access to Sensitive Compartmented Information (SCI); and suspending, denying, or revoking access to national security information

(E.O. 12968 “Access to Classified Information”, as amended), notwithstanding the Secretary's authority to remove an employee for national security reasons as outlined in 5 U.S.C. 7532.

(2) Manage the personnel security functions of the Department’s suitability program for individuals holding Public Trust positions (positions designated as Moderate or High Risk) established pursuant to 5 CFR part 731 and E.O. 13488, “Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust” (74 FR 4111, 3 CFR, 2010 Comp., p. 189), as amended, to make initial or continued suitability determinations.

(3) Manage, coordinate, develop, and promulgate policies and training regarding personnel security, and serve as USDA's personnel security liaison to the Office of Personnel Management (OPM), who serves as the Suitability Executive Agent (SuitEA) and the Office of the Director of National Intelligence (ODNI), who serves as the Security Executive Agent (SecEA).

(4) Review and develop recommendations on classifying, declassifying, and safeguarding national security information for which the Secretary is responsible as Original Classification Authority.

(5) Establish, direct, and maintain an Insider Threat program to deter, detect, and mitigate insider threats in accordance with the National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, November 21, 2012, and subsequent guidance from the National Insider Threat Task Force (NITTF).

(b) Delegations from the Assistant Secretary for Administration. Pursuant to § 2.24(a)(8), and with due deference for delegations to other Departmental Administration officials, the following delegations of authority are made by the Assistant Secretary for Administration to the Executive Director, Office of Homeland Security:

(1) Serve as the principal advisor to the Secretary on national security, including emergency management, agriculture and food defense, and foreign investments in U.S. agriculture.

(2) Coordinate activities of the Department, including policies, processes, budget needs, and oversight relating to national security, including emergency management, biodefense, agriculture and food defense, and foreign investments in U.S. agriculture.

(3) Act as the primary liaison on behalf of the Department with other Federal departments and agencies in activities relating to national security, including emergency management, integrated laboratory networks, agriculture and food defense, foreign investments in U.S. agriculture, national intelligence collection priorities, and interagency coordination and data sharing.

(4) Coordinate in the Department the gathering of information relevant to early warning and awareness of threats and risks to the food and agriculture critical infrastructure sector; and share that information with, and provide assistance with interpretation and risk characterization of that information to, the intelligence community (as defined in 5 U.S.C. 3003), law enforcement agencies, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of Health and Human Services, and State fusion centers (as defined in section 210A(j) of the Homeland Security Act of 2002 (6 U.S.C. 124h(j))).

(5) Establish and maintain an effective defensive Counterintelligence Program to counter Foreign Intelligence Entity (FIE) threats to Departmental sensitive information and assets that includes identification and risk assessment to sensitive assets, development and implementation of mitigation strategies, integration of counter-FIE efforts across the Department, sharing of threat information and warnings, and promotion of counterintelligence training awareness.

(6) Liaise with the Intelligence Community to assist in the development of periodic assessments and intelligence estimates, or other intelligence products, that support the defense of

the food and agriculture critical infrastructure sector and risks associated with foreign investments in U.S. agriculture.

(7) Coordinate the conduct, evaluation, and improvement of exercises to identify and eliminate gaps in preparedness and response.

(8) Produce a Department-wide centralized strategic coordination plan to provide a high-level perspective of the operations of the Department relating to homeland and national security, including emergency management and agriculture and food defense.

(9) Establish and carry out an interagency Agriculture and Food Threat Awareness Partnership Program, including by entering into cooperative agreements or contracts with Federal, State, or local authorities (7 U.S.C. 6922).

(10) Administer the Department's Emergency Preparedness Program. This includes:

(i) Coordinate the delegations and assignments made to the Department under the Defense Production Act of 1950, 50 U.S.C. App. 2061, et seq.; the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq.; and by Executive Orders 12148, "Federal Emergency Management" (3 CFR, 1979 Comp., p. 412), 12656, "Assignment of Emergency Preparedness Responsibilities" (3 CFR, 1988 Comp., p. 585), and 13603, "National Defense Resources Preparedness" (3 CFR, 2012 Comp., p. 225), or any successor to these Executive Orders, to ensure that the Department has sufficient capabilities to respond to any occurrence, including natural disaster, military attack, technological emergency, or any all hazards incident.

(ii) Manage the Department Emergency Operations Center at Headquarters and the Secretary's alternative facilities; provide senior staff with international, national, and regional situational awareness reports; and provide and maintain current information systems technology and National Security Systems to support USDA executive crisis management capability.

(iii) Provide facilities and equipment to facilitate inter-agency coordination during emergencies.

(iv) Activate the USDA incident management system in accordance with the National Response Framework and the National Incident Management System in the event of a major incident; and provide oversight and coordination of the Department's Emergency Support Functions as outlined in the National Response Framework.

(v) Develop and promulgate policies for the Department regarding emergency preparedness and national security, including matters relating to anti-terrorism and agriculture-related emergency preparedness planning, both national and international, and guidance to USDA State and County Emergency Boards.

(vi) [Reserved]

(vii) Provide representation and liaison for the Department in contacts with other Federal entities and organizations, including the National Security Council's functional directorates, Homeland Security Council, Office of Management and Budget, Department of Homeland Security, Federal Emergency Management Agency, Office of the Director of National Intelligence, Department of State, Federal Bureau of Investigation, and Department of Defense concerning matters of a national security, multilateral weapons conventions, natural disasters, other emergencies, and agriculture/food-related international civil emergency planning and related activities.

(viii) Act as the primary USDA representative for anti-terrorism activities and coordinates and oversees USDA's agroterrorism defense activities and programs.

(ix) [Reserved]

(x) Provide guidance and direction regarding radiological emergency preparedness programs and the implementation of the National Response Framework's Nuclear/Radiological Incident Annex to Departmental staff offices, mission areas, and agencies.

(xi) Provide program leadership and coordination for USDA's radiological emergency preparedness requirements with respect to Emergency Management and Assistance (44 CFR parts 350 through 352).

(xii) Represent USDA on the Federal Radiological Preparedness Coordinating Committee (FRPCC) and Regional Assistance Committees (RACs) and assist them in carrying out their functions.

(xiii) Support USDA in its management of the Department's emergency response program with respect to radiological emergency response activities.

(xiv) [Reserved]

(11) Administer the Controlled Unclassified Information (CUI) program for the Department pursuant to E.O. 13556, "Controlled Unclassified Information" (75 FR 68675, 3 CFR, 2011 Comp., p. 267) and 32 CFR part 2002.

(12) Serve as the primary point of contact for Government Accountability Office (GAO) and Office of the Inspector General (OIG) audits of USDA homeland and national security activities.

(13) Coordinate interaction between Department agencies and private sector businesses and industries in emergency planning and public education under Department authorities delegated or assigned under the National Response Framework, National Infrastructure Protection Plan, Defense Production Act of 1950, 50 U.S.C. App. 2061, et seq., and Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq.

(14) Oversee the Department's ability to collect and disseminate information and prepare for an agricultural disease emergency, agroterrorism act, or other threat to agricultural biosecurity, and coordinate such activities among agencies and offices within the Department (7 U.S.C. 8912).

(15) Promulgate Departmental policies, standards, techniques, and procedures and represent the Department in providing security guidance to the Food and Agricultural Sector nationwide. This includes the following duties:

(i) Provide guidance to USDA agencies and the Food and Agricultural Sector in matters of security through use of assessments and development of mitigation strategies.

(ii) Represent and act as liaison for the Department in contacts with other Federal security entities and organizations, including the Interagency Security Committee and the Department of Homeland Security.

(iii) Provide guidance and direction to ensure agriculture/food security are fully integrated in USDA's security preparations, which are reported to and coordinated with the White House.

(iv) Provide assistance to the USDA agencies in preparation for and during a disaster to identify critical assets and possible alternate storage locations.

(16) Provide oversight and coordination of the development and administration of the Department Continuity Program. This includes:

(i) Provide guidance and direction regarding continuity of operations to the Office of the Secretary, Departmental staff offices, mission areas, and agencies.

(ii) Represent and act as liaison for the Department in contacts with other Federal entities and organizations concerning matters of assigned continuity program responsibilities.

(iii) Oversee Department continuity of operations and emergency relocation facility planning, development, equipping, and preparedness to ensure that resources are in a constant state of readiness.

(17) Establish procedures to prevent unnecessary access to classified national security information (CNSI) including procedures that require that need for access to CNSI is established before initiating security clearance procedures; and ensure that the number of persons granted access CNSI is limited to the minimum consistent with operational and security requirements:

(i) Direct and administer USDA's CNSI program pursuant to E.O. 13526, "Classified National Security Information" (75 FR 707, 3 CFR, 2010 Comp., p. 298), or subsequent orders.

(ii) Establish and maintain Information Security policies and procedures for classifying, declassifying, safeguarding, and disposing of CNSI and materials.

(iii) Investigate or delegate authority to investigate any potential compromises of CNSI and take corrective action for violations or infractions under section 5.5(b), of E.O. 13526 or any subsequent order.

(iv) Develop and maintain oversight of all facilities throughout USDA where CNSI is or will be safeguarded, discussed, or processed including sole authority to liaison with the Central Intelligence Agency concerning guidance, approval, requirements, and oversight of USDA secure facilities.

(18) Control within USDA the acquisition, use, and disposal of material and equipment that can be a source of ionizing radiation.

(i) Promulgate policies and procedures for ensuring the safety of USDA employees, the public, and the environment resulting from USDA's use of ionizing radiation sources.

(ii) Maintain and ensure compliance with the Nuclear Regulatory Commission regulations (Title 10, Code of Federal Regulations) and license(s) issued to USDA for the acquisition, use, and disposal of radioactive materials.

#### **§ 2.97 [Removed and Reserved]**

24. Remove and reserve § 2.97.

### **Subpart U—Delegations of Authority by the Under Secretary for Trade and Foreign Agricultural Affairs**

25. Revise § 2.600 to read as follows:

#### **§ 2.600 Deputy Under Secretary for Trade and Foreign Agricultural Affairs**

Pursuant to § 2.15(a), subject to reservations in § 2.15(b), and subject to policy guidance and direction by the Under Secretary, the following delegation of authority is made to the Deputy Under Secretary for Trade and Foreign Agricultural Affairs, if appointed, to be exercised only during the absence or unavailability of the Under Secretary: Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Under Secretary for Trade and Foreign Agricultural Affairs: Provided, that this authority shall be exercised by the

respective Deputy Under Secretary in the order in which he or she has taken office as a Deputy Under Secretary.

26. Amend § 2.601 by revising paragraph (a) introductory text and paragraph (a)(2) to read as follows:

**§ 2.601 Administrator, Foreign Agricultural Service.**

(a) *Delegations.* Pursuant to §2.15(a)(1) and (3), subject to reservations in §2.15(b), the following delegations of authority are made by the Under Secretary for Trade and Foreign Agricultural Affairs to the Administrator, Foreign Agricultural Service:

\* \* \* \* \*

(2) Conduct functions of the Department relating to WTO, the Trade Expansion Act of 1962 (19 U.S.C. 1801 *et seq.*), the Trade Act of 1974 (19 U.S.C. 2101 *et seq.*), the Trade Agreements Act of 1979 (19 U.S.C. 2501 *et seq.*), the Omnibus Trade and Competition Act of 1988 (19 U.S.C. 2901 *et seq.*), and other legislation affecting international agricultural trade including the programs designed to reduce foreign tariffs and other trade barriers.

\* \* \* \* \*

**§ 2.602 [Amended]**

27. In § 2.602 amend paragraph (a) introductory text by revising the references to “§ 2.26(a)(5)” to read “§ 2.15(a)(5)” and “§ 2.26(b)” to read “2.15(b)”.

\* \* \* \* \*

**Subpart V – Delegations of Authority by the Director, Office of Partnerships and Public Engagement**

\* \* \* \* \*

**§ 2.701 [Removed and Reserved]**

28. Remove and reserve § 2.701.

The Secretary of Agriculture, Thomas J. Vilsack, having reviewed and approved this document, is delegating the authority to electronically sign this document to Janie S. Hipp, the General Counsel, for purposes of publication in the Federal Register.

Janie S. Hipp

General Counsel

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